

**FILED**

**MAR 09 2012**

**PATRICK E. DUFFY, CLERK**

**By** \_\_\_\_\_  
**DEPUTY CLERK, MISSOULA**

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF MONTANA**

**MISSOULA DIVISION**

TEURAY JERI CORNELL,	)	CV 12-7-M-DLC-JCL
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
MISSOULA COUNTY, MISSOULA COUNTY	)	
COMMISSIONERS, STATE OF MONTANA,	)	
ATTORNEY GENERAL OF THE STATE	)	
OF MONTANA, and MISSOULA COUNTY	)	
SHERIFF,	)	
	)	
Defendants.	)	
	)	

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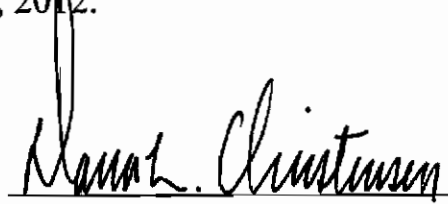
United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation on January 26, 2012, and recommended dismissing Plaintiff Teuray Jeri Cornell's complaint because Cornell's allegations fail to state a claim for relief against any of the named Defendants. Plaintiff did not timely object to the Findings and Recommendation, and so has waived the right to de novo review

of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Cornell seeks compensation for allegedly being unlawfully incarcerated for four days at the Missoula County Jail. Judge Lynch found, even with liberal construction, that Cornell’s allegations fail to state a claim on which the Court could grant relief under 42 U.S.C. § 1983. The record establishes that Cornell was incarcerated based on the Justice Court’s decision, not the conduct of any Defendant named in this action. Additionally, Judge Lynch found, as a further ground for dismissal, the State of Montana is immune from suit brought in federal court under authority of the Eleventh Amendment to the United States Constitution. After a review of Judge Lynch’s Findings and Recommendation, I find no clear error. Accordingly,

IT IS HEREBY ORDERED that Judge Lynch’s Findings and Recommendation (dkt #4) are adopted in full. This action is DISMISSED without leave to amend on the basis that it is clear the defects in Cornell’s allegations could not be cured by any amended pleading.

DATED this 9<sup>th</sup> day of March, 2012.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looped initial "D".

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Dana L. Christensen, District Judge  
United States District Court